



1 must be brought in a habeas petition). The preferred practice in the Ninth Circuit has been that  
2 challenges to conditions of confinement should be brought in a civil rights complaint. See Badea  
3 v. Cox, 931 F.2d 573, 574 (9th Cir. 1991) (civil rights action is proper method of challenging  
4 conditions of confinement); Crawford v. Bell, 599 F.2d 890, 891-92 & n.1 (9th Cir. 1979)  
5 (affirming dismissal of habeas petition on basis that challenges to terms and conditions of  
6 confinement must be brought in civil rights complaint).

7 Accordingly, the Court will dismiss the instant habeas action without prejudice because  
8 Petitioner's claims do not challenge the duration or legality of his confinement or sentence under  
9 § 2254. Instead, Petitioner challenges the prison's administrative appeal process. Petitioner's  
10 claims are more appropriately addressed in a civil rights complaint pursuant to 42 U.S.C. § 1983.

### 11 CONCLUSION

12 The instant petition for writ of habeas corpus is DISMISSED without prejudice.  
13 Petitioner may re-file his claims in a new action in a civil rights complaint pursuant to 42 U.S.C.  
14 §1983 on the enclosed form. Petitioner's motion to proceed in forma pauperis (docket no. 2) is  
15 DENIED as moot. The Clerk shall terminate all pending motions and close the file.

16 IT IS SO ORDERED.

17 DATED: 4/8/08

  
JEREMY FOGEL  
United States District Judge